

GENERAL RECEIVER ACCOUNTING MANUAL

TABLE OF CONTENTS

<u>Chapter</u>	<u>Topic</u>
I.	<u>Introduction</u>
II.	<u>The Internal Control Environment</u>
III.	<u>Overview of the Process</u>
IV.	<u>Court Orders</u>
V.	<u>Accounting Records</u>
VI.	<u>Cash Disbursements</u>
VII.	<u>Allocation of Bond Costs</u>
VIII.	<u>Unclaimed Property</u>
IX.	<u>Required Annual Reports</u>
Appendix 1	<u>Applicable Code Sections</u>

1. INTRODUCTION

The General Receiver is appointed by the Circuit Court “to receive, take charge of and hold all moneys paid under any judgment, order or decree of the Court, and also to pay out or dispose of same as the Court orders or decrees.” The General Receiver may be the Clerk of the Circuit Court, Local Treasurer, an individual (usually an attorney or CPA), or a financial institution. With appropriate Court orders, General Receiver funds may be transferred to Court funds and also Court funds may be deposited with the General Receiver. Moneys held by the General Receiver are deemed public deposits and shall be invested in certificates of deposits or time deposits, as ordered by the Court. Any moneys received by the General Receiver are subject to audit by the Auditor of Public Accounts. Financial institution audits are generally done by their internal or external auditors performing agreed upon procedures.

Purpose of the Manual

Section 8.01-582 of the Code of Virginia tasks the Auditor of Public Accounts with prescribing record keeping and accounting standards for General Receivers in the Commonwealth. Pursuant to that statute, the Auditor of Public Accounts originally developed the General Receivers’ Accounting Procedures Manual in 1988 to establish those accounting procedures. Changes in state laws and emerging financial issues have necessitated the updating of the manual. This publication represents an update of the General Receivers’ Accounting Procedures Manual.

The procedures set forth in this manual are intended to provide guidance to General Receivers for accounting for money under their control via cash-basis accounting. Generally, the General Receiver’s accounting records, whether manual, automated, or a combination of both, must provide sufficient information documenting all transactions affecting an individual trust fund account. The records should have an adequate audit trail that clearly shows each transaction from the initial receipt through final disbursement.

Organization of the Manual

Handling General Receiver funds involves several accounting areas including receipting, investing, disbursing funds, court orders, and reporting. The sections in this manual outline the accounting procedures for these areas. Where applicable, we provide the relevant statutory requirements for General Receivers in the performance of their duties. In this manual we also address internal controls, bond premiums and allocating bond costs, unclaimed property, and General Receiver compensation.

2. THE INTERNAL CONTROL ENVIRONMENT

This section is a general discussion of internal controls and those factors that the General Receiver should consider when setting up the accounting procedures for the beneficiary funds they hold for each Court.

Internal controls help to reduce the risk of theft or misuse of General Receiver trust funds. No system of internal controls; however, can replace a General Receiver's active participation in understanding and reviewing the fiscal activities of the office. Internal controls will not stop a determined thief from taking trust fund moneys; however, they do reduce the personal risk of the loss to the General Receiver; provide a system for researching, correcting and reducing errors; and will reduce the time in finding the person who is embezzling trust fund moneys, should that occur.

Internal controls have limited effectiveness especially when the assignment of personnel to the accounting process is restricted by the usual small size of a General Receiver's office. However, the Auditor of Public Accounts has never investigated a fraud where there were good internal controls or where the supervisor did not trust one person to do everything because they had always done a good job.

Internal Controls

Strong internal control is a system of checks and balances with four fundamental parts: division of work, the use of accounting records, the rotation of personnel, and strong, thorough supervisory review. A strong control system will also coordinate procedures such that one employee, working independently, will check the work of another employee, and no single employee will have absolute control of any critical procedure.

Each office's control environment comes from the General Receiver's tone for the organization and influences the control consciousness of employees. The General Receiver should provide a structured foundation with clearly detailed policies and procedures. Identifying risk areas, determining and installing appropriate controls, and monitoring performance will provide reasonable assurance that the General Receiver's office will meet its objectives.

Practical internal controls for any office should include having written policies and procedures for all accounting areas. Good internal controls do not restrict the flow of information and resources, but rather aid the office's efficiency and accountability by showing and documenting who has responsibility for assets. Good controls protect not only the organization but the individual employee as well.

When determining the needs of the particular office, the General Receiver needs to consider the following:

- Are the collection, control, and deposit of all Court funds separated from the accounting and bookkeeping function as much as possible based on the number of employees available?
- Does someone restrictively endorse checks as soon as received?
- Is there a record of all collections properly showing the Court order, account, amount, and date?
- Are cash receipts deposited intact and timely?
- Does someone reconcile recorded receipts to the general ledger and prepare monthly and annual reports?
- Are accounting records secured from unauthorized access and safeguarded from any catastrophe?

Not every General Receiver's office can implement all of the controls discussed here, because excessive or unnecessary controls may prove a deterrent to productivity. It is important that each office evaluate its overall objectives, day-to-day operations, staffing, and available accounting systems in order to design an acceptable system of internal controls that will safeguard assets and provide reliability of reporting information.

Any system of internal controls should include the following seven components to the maximum extent possible.

Policies and Procedures

Establishing and enforcing procedures is an essential element of management's control, especially if they reflect the needs of each operation in an office. Staff members are more likely to understand and use specific and detailed procedures. Written policies document the flow of work and are available for employees to use for reference and training. Well written policies and procedures will clearly state an objective (or policy), provide definitions and examples of forms used or files maintained, list detailed procedures, and state the supervisory authority, review procedures, and related standards.

Safeguarding Cash and Investments

In most General Receivers' offices, assets are limited to cash and investments. The General Receiver should store all monies, check books and negotiable instruments in a safe, or a locked repository. In many cases this may be a desk drawer, file cabinet, or locked closet. Certificates of deposits and investment records should be stored in a locked file cabinet or secure area.

Separation of Duties

Ideally, there should be complete separation of duties when handling monies. The same person should not receive, record, deposit and disburse trust fund monies. The individual responsible for maintaining the checkbook should not be the authorized check signer. Separating these functions ensures that there is a system of checks and balances. Employees would know that there is accountability for errors. Smaller offices will have difficulty in providing all the separation of duties. When separation of duties is not possible, the General Receiver will need to increase other compensating controls, such as regular supervisory review.

Maintaining Accounting Records

Accounting records may take many forms such as manual ledgers, an automated system, or some combination of both. Regardless of what form, the accuracy of the accounting records is very important especially when dealing with public funds. Entries must be accurate, timely, and supported by proper documentation. It should be obvious in the accounting records that staff is performing regular reconciliations between financial institution records and General Receiver accounting records. There must be accountability and supervisory review of accounting records. The General Receiver must retain accounting records for a period of three years after audit.

Reconciliation

Reconciliation refers to the process of agreeing information from outside sources to the accounting records to ensure that the accounting records properly include all transactions. The most common process is the monthly reconciliation done between the General Receiver's official bank account and the bank statement; and between the various trust fund investment instruments and the applicable summary or individual trust ledgers. In some offices additional reconciliations may be needed to ensure that automated system balances agree to manual balances. The checking account must be reconciled monthly or upon receipt of the bank statement and all reconciling items should be resolved promptly.

Information Security

When automated systems are used, security over both the information and the equipment must be considered. With automated systems it is essential that the system allow for the review and approval of data entry and other means of changing existing information. System users should have access only to areas and information essential to

their duties. Backup for automated systems is essential. Systems should have password protection and office policy should prohibit sharing of individual system passwords.

Supervisory Review

Supervisory review is the most effective control. By establishing a regular schedule for review, the staff becomes aware of the General Receiver's commitment to control and security. In addition, timely reviews will identify problems before they become more complex through the passage of time. It is easier to fix an error in the subsequent month than it is to wait until year-end. The General Receiver should consider monthly reviews of all bank reconciliations, annual reviews of financial summaries and security reports, and periodic reviews of daily reconciliations. Evidence of this review should include the General Receiver's initials and date of the review.

3. OVERVIEW OF THE PROCESS

The Court Order establishes the need to handle funds on behalf of a designated party. Once the Court Order is issued, the appointed General Receiver now has the responsibility to answer the requirements of the initiating and subsequent Court orders and other Code of Virginia requirements.

In general, a Trust Fund takes the following common steps:

1. Court Order establishes the Trust Fund.
2. General Receiver deposits the monies into General Receiver's official bank account.
3. General Receiver then transfers funds to an interest-bearing account for safe-keeping.
4. General Receiver records interest earnings and reconciles accounts.
5. General Receiver records and deducts the trust fund costs from the account.
6. Monies are distributed per Court order.

General Receiver Compensation

The General Receiver is entitled to compensation for services in amounts as deemed reasonable by the Court. In no case, however, may the General Receiver's compensation exceed the following amounts (Section 8.01-589, Code of Virginia):

- \$10 when the originating Court order is received;
- \$10 when all of the funds held for a beneficiary are disbursed;
- \$10 per draft of check for periodic and final disbursements;
- 5 percent of the interest income earned; and
- \$10 for sending unclaimed funds to the State Treasurer and up to \$10 per draft for sending those funds.

4. COURT ORDERS

All trust funds received and disbursed must be accompanied by an official Court order.

The General Receiver should maintain all Court orders supporting the receipts and disbursements of each Trust Fund Account.

The General Receiver shall be liable for any loss of income, which results from the failure to invest any money held pursuant to Section 8.01 – 582 of the Code of Virginia within 60 days of the receipt of the funds. The General Receiver may be charged with interest from the date of the Court order until such investment is made.

The General Receiver may be liable for any loss of income, which results from the failure to pay out any money so ordered by the Court within 60 days of the Court order. The General Receiver may be charged with interest from the date of the Court order until such payment is made.

5. ACCOUNTING RECORDS

General Receivers should expect to record trust fund transactions at least monthly. However, circumstances will vary depending on the particular trust fund and its investment instrument. Refer to the following table for a general schedule of transaction events.

Daily /	Process new orders
Weekly /	Process distributions
Monthly	Calculate and record interest
– as needed	Calculate and record General Receiver Fees
Monthly	Perform monthly reconciliation for the General Receiver's official bank account and the Individual Trust funds between bank records and accounting records
Annually	Perform annual reconciliation for the General Receiver's official bank account and the Individual Trust funds between bank records and accounting records
	Calculate bond premium; allocate bond premium costs to individual trust funds; forward bond premium to the Division of Risk Management with the Department of Treasury
	Prepare and deliver the annual report to the Clerk of the Circuit Court and the Chief Judge

A bank checking account should be established to account for the receipt and disbursement of all General Receiver transactions. This checking account -- General Receiver's official bank account -- will provide an audit trail separate and apart from any other funds the General Receiver may hold. The balance maintained in this account would include any fees or bond costs, which have been withheld from the trust accounts but not yet paid to the General Receiver or the Division of Risk Management, respectively.

The General Receiver should perform regular reconciliations between the General Receiver's official bank account and the supporting accounting records upon receipt of the bank statement.

An individual trust fund ledger account should be established to account for each Court Order and / or trust fund recipient. Each account needs to be able to record all transactions of the Court Order and subsequent handling of the funds. This includes, but is not limited to:

- Receipt of Cash
- Investment History
- General Receiver Fees

Bond Costs
Disbursements / Distributions

This accounting record should be set up in such a fashion that it will support the General Receiver's summary reporting requirements as described below.

A Summary Trust fund ledger should be established such that those totals will properly summarize all trust funds in the custody of the General Receiver and agree to the applicable bank records.

Cash Receipts

Funds received by the General Receiver, pursuant to the provisions of Section 8.01-582, and cash received from matured investments should be receipted in the following manner:

Date of receipt

Name of person delivering the funds to the General Receiver

Style of case (i.e. plaintiff vs. defendant)

Order book reference, if applicable

File number or identification number

Beneficiary, if applicable

Amount received (Bond costs and allowable General Receiver fees should be charged at the time of receipt and deducted from the amount received and the balance should be recorded as trust funds). For example:

General Receiver fees	\$10
Bond costs	\$36
Trust funds	<u>\$11,954</u>

Total amount received	<u>\$12,000</u>
-----------------------	-----------------

All monies received should be deposited promptly.

Receipts should be recorded daily in the individual trust fund ledger accounts and carried forward to the summary ledger.

Investment of Trust Funds

The General Receiver should invest funds in an instrument or account insured by the Federal Deposit Insurance Corporation (FDIC).

When invested, the General Receiver shall notify each banking institution that all General Receiver deposits are Public Deposits.

Investments should not be rolled over at maturity. Investments should be converted to cash, receipted and recorded in accordance with the receipting procedures in the Cash Receipts Section. This permits the General Receiver the opportunity to make better investment decisions for these funds, and / or confirm with the Court the need for potential disbursement. Before reinvesting trust funds, the necessary funds must be withheld from the trust account to provide for the bond costs during the investment period (see the instructions prescribed for recording bond costs).

Interest Earned in Trust Fund Accounts

Monthly, quarterly or annual statements should be received from all holders of Trust Fund monies.

The interest (investment) income shown on each statement should, to the extent practical, be recalculated to determine whether it is in agreement with the amount guaranteed by the seller of the investment instrument.

The interest (investment) income should be recorded to the individual trust fund ledger for each account. If several trust funds share one investment instrument, the General Receiver will need to calculate and allocate the interest earned amongst the individual trust accounts.

General Receiver fees (5 percent of interest) should be calculated and recorded to the individual trust fund ledger for each account. The fees earned are then withdrawn from trust fund accounts and transferred to the General Receiver's official checking account and shown as an addition to General Receiver cash in bank and an addition to General Receiver Fees.

6. CASH DISBURSEMENTS

The General Receiver must be in receipt of an official Court Order to disburse any trust funds. This Order should be clearly documented on the individual Trust Account Record.

Trust funds should be disbursed on checks drawn on the General Receiver's official bank account (bank cashier checks may be used with adequate audit trail).

Amounts invested in certificates of deposit and / or savings accounts should be transferred to the General Receiver's official checking account for disbursement (bank cashier checks may be used with adequate audit trail).

The disbursement of General Receiver fees should be by check from the General Receiver's official checking account and made payable to the General Receiver.

Surety bond costs should be disbursed by check from the General Receiver's official checking account and made payable to the Department of Treasury/Division of Risk Management.

Prior to final disbursement of a Trust Fund account, the General Receiver should ensure any interest earned or bond costs reimbursements due have been properly posted to the account.

General Receiver fees at the time of disbursement, as allowed by the Court and Section 8.01–589 of the Code of Virginia, should be recorded as a disbursement of the trust fund account and a receipt of General Receiver fees. These fees are withdrawn from trust fund accounts and transferred to the General Receiver's official checking account and shown as an addition to General Receiver cash in bank and an addition to General Receiver Fees individual trust fund ledger account.

Bond Premium

The General Receiver is required to purchase faithful performance (surety) bonds through the Department of Treasury, Division of Risk Management. The bond amount is established as of October 1 of each year based on the amount of Court funds under the General Receiver's control as of June 30 of that year rounded down to the nearest \$100. All accounts should be charged for bond costs at the rate established by the Division of Risk Management.

7. ALLOCATION OF BOND COSTS

General Receivers are required to allocate their surety bond costs to all trust fund accounts held. Bond cost allocation should occur on an annual basis. There are no special calculations for trust fund accounts that are either established or disbursed during the fiscal year. All allocations are based on what specific trust funds the General Receiver has custody of at fiscal year-end.

Annual Allocation

After the General Receiver has recorded the various annual transactions for interest earnings and General Receiver fees, the General Receiver should calculate and record bond costs due for the upcoming fiscal year for each trust fund with a balance greater than \$100. These smaller accounts will still be covered under the surety bond without having to be charged.

Computed bond costs are then withdrawn from trust fund accounts and transferred to the General Receiver's official checking account and shown as an addition to General Receiver cash in bank and an addition to bond costs individual trust fund ledger accounts.

Bond costs withdrawn from trust funds held in pooled investments should be allocated to the individual accounts based on their respective balance in the pool (Individual trust balance / total trust balance = allocation percentage for the individual trust accounts).

8. UNCLAIMED PROPERTY

In those instances, where trust funds have become payable or distributable and have not been claimed by the owner for more than a year, the General Receiver is required to petition the Court to remit the unclaimed money to the State Treasurer. An exception to this is that funds deposited as compensation and damages in condemnation proceedings do not have to be reported or remitted to the State Treasurer before the final Court order is issued (sections 8.01–602 and 55.1-2519 of the Code of Virginia). See forms at this link: <https://www.vamoneysearch.org/Report/Forms>

9. REQUIRED ANNUAL REPORTS

Annual Report to the Court

The General Receiver is required to annually report certain information regarding the trust fund accounts under his control to the Court. The report should be made no later than October 1st and needs to include the following information as of the preceding June 30th:

- The balance of each case in which money has been received, the manner in which it was received, and the manner in which it was invested;
- The amount received, the amount invested, and the amount paid out;
- An estimate of the approximate date on which the funds will become payable when available; and
- The whole amount then invested and subject to future order of the Court.

Report to the Division of Risk Management

The General Receiver is required to report the total amount of funds under his control as of the preceding June 30th to the Division of Risk Management. He is also required to report any amounts he expects to come under his control for the year ending June 30th of the following year.

Report of Financial Condition

Chapter 854 of the 2019 Acts of Assembly (Item 4-11.00) requires that each officer handling State funds shall, upon the request of the Auditor of Public Accounts, make a detailed statement under oath, of the financial condition of his or her office. In the case of the General Receiver, it is specifically related and limited to trust fund moneys held for the Circuit Court as of June 30th. This statement must be filed annually.

10. APPENDIX 1 – STATUTORY REQUIREMENTS

This Appendix is a compilation of the relevant statutory references from the Code of Virginia pertaining to General Receivers.

§ 2.2-4400. Short title; declaration of intent; applicability.

A. This chapter may be cited as the "Virginia Security for Public Deposits Act."

B. The General Assembly intends by this chapter to establish a single body of law applicable to the pledge of collateral for public deposits in financial institutions so that the procedure for securing public deposits may be uniform throughout the Commonwealth.

C. All public deposits in qualified public depositories that are required to be secured by other provisions of law or by a public depositor shall be secured pursuant to this chapter. Public depositors are required to secure their deposits pursuant to several applicable provisions of law, including but not limited to §§ 2.2-1813, 2.2-1815, 8.01-582, 8.01-600, 15.2-1512.1, 15.2-1615, 15.2-2625, 15.2-6611, 15.2-6637, 58.1-3149, 58.1-3150, 58.1-3154, and 58.1-3158.

D. This chapter, however, shall not apply to deposits made by the State Treasurer in out-of-state financial institutions related to master custody and tri-party repurchase agreements, provided (i) such deposits do not exceed ten percent of average monthly investment balances and (ii) the out-of-state financial institutions used for this purpose have a short-term deposit rating of not less than A-1 by Standard & Poor's Rating Service or P-1 by Moody's Investors Service, Inc., respectively.

1973, c. 172, §§ 2.1-359, 2.1-361; 1984, c. 135; 2000, cc. 335, 352; 2001, c. 844; 2010, cc. 640, 674.

§ 2.2-4407. Mandatory deposit of public funds in qualified public depositories.

Public deposits required to be secured pursuant to this chapter shall be deposited in a qualified public depository.

1973, c. 172, § 2.1-366; 2001, c. 844; 2010, cc. 640, 674.

§ 2.2-4410. Liability of public depositors.

When deposits are made in accordance with this chapter no official of a public depositor shall be personally liable for any loss resulting from the default or insolvency of any qualified public depository in the absence of negligence, malfeasance, misfeasance, or nonfeasance on his part or on the part of his agents.

1973, c. 172, § 2.1-370; 2001, c. 844; 2010, cc. 640, 674.

§ 2.2-4500. Legal investments for public sinking funds.

The Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any sinking funds belonging to them or within their control in the following securities:

1. Bonds, notes and other evidences of indebtedness of the Commonwealth, and securities unconditionally guaranteed as to the payment of principal and interest by the Commonwealth.

2. Bonds, notes and other obligations of the United States, and securities unconditionally guaranteed as to the payment of principal and interest by the United States, or any agency thereof. The evidences of indebtedness enumerated by this subdivision may be held directly, or in the form of repurchase agreements collateralized by such debt securities, or in the form of securities of any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, provided that the portfolio of such investment company or investment trust is limited to such evidences of indebtedness, or repurchase agreements collateralized by such debt securities, or securities of other such investment companies or investment trusts whose portfolios are so restricted.

3. Bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body of the Commonwealth upon which there is no default; provided, that such bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body are either direct legal obligations of, or those unconditionally guaranteed as to the payment of principal and interest by the county, city, town, district, authority or other public body in question; and revenue bonds issued by agencies or authorities of the Commonwealth or its political subdivisions upon which there is no default.

4. Bonds and other obligations issued, guaranteed or assumed by the International Bank for Reconstruction and Development, bonds and other obligations issued, guaranteed or assumed by the Asian Development Bank and bonds and other obligations issued, guaranteed or assumed by the African Development Bank.

5. Savings accounts or time deposits in any bank or savings institution within the Commonwealth provided the bank or savings institution is approved for the deposit of other funds of the Commonwealth or other political subdivision of the Commonwealth.

1956, c. 184, § 2-297; 1958, c. 102; 1966, c. 677, § 2.1-327; 1970, c. 75; 1974, c. 288; 1986, c. 270; 1988, cc. 526, 834; 1996, cc. 77, 508; 2001, c. 844.

§ 8.01-582. Appointment of general receivers; their duties; audit of funds.

Any circuit court may appoint a general receiver of the court, who may be the clerk of the court, and who shall hold his office at its pleasure. The general receiver's duty shall be, unless it is otherwise specially ordered, to receive, take charge of and hold all moneys paid under any judgment, order or decree of the court, and also to pay out or dispose of same as the court orders or decrees. Moneys held pursuant to this section shall be deemed public deposits as set forth in Chapter 44 (§ 2.2-4400 et seq.) of Title 2.2 and shall be invested in certificates of deposit or time deposits, and in accordance with the provisions of Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2, as ordered by the court. Prior to or at the time of entry of any judgment, order or decree placing moneys under the control of the general receiver for the benefit of any specifically identified beneficiary, the general receiver shall file an affidavit with the court providing the beneficiary's name, date of birth, and social security number, as well as the proposed dates of final and periodic disbursements. Such affidavit shall be maintained under seal by the clerk unless otherwise ordered by the court, and the information therein shall be used solely for the purposes of financial management and reporting. Orders creating funds pursuant to this section shall include information necessary to make prudent investment and disbursement decisions but shall not include the personal identifying information set forth in the general receiver's affidavit.

Unless otherwise ordered by the court, the provisions of this section shall not apply to:

1. Cash or other money received in lieu of surety on any bond posted in any civil or criminal case, including but not limited to, bail bonds, appeal bonds in appeals from a district court or circuit court, bonds posted in connection with the filing of an attachment, detinue seizure or distress, suspending bonds, and performance bonds;
2. Cash or other money paid or deposited in the clerk's office prior to final disposition of the case, including but not limited to interpleaders or eminent domain; or
3. Cash or other money deposits in lieu of surety on any bond posted in the clerk's office which is not posted in connection with any civil or criminal case, including bonds posted by executors or administrators.

To this end, the general receiver is authorized to verify, receive, and give acquittances for all such moneys, as the court may direct. Any interest which accrues on the funds, minus allowable fees and bond costs, shall be credited and payable to the person or persons entitled to receive such funds.

All moneys received under this section are subject to audit by the Auditor of Public Accounts. The Auditor of Public Accounts shall prescribe mandatory record keeping and accounting standards for general receivers.

Code 1950, § 8-725; 1973, c. 354; 1977, c. 617; 1979, c. 498; 1988, c. 553; 1990, c. 414; 1991, c. 635; 1999, c. 198; 2003, c. 97.

§ 8.01-583. How securities taken and kept; power of receivers over same.

The securities in which under the orders of the court such investments may be made shall be taken in the name of the general receiver and be kept by him, unless otherwise specially ordered. He shall have power to sell, transfer or collect the same, only upon order of the court; and in case of his death, resignation or removal his successor, or any person specially appointed by the court for that purpose, shall have like power.

Notwithstanding the foregoing paragraph, when a general receiver places funds in a security or investment which is insured by the Federal Deposit Insurance Corporation or other federal insurance agency, the general receiver shall to the extent practicable invest these funds so that insurance coverage is provided by the Federal Deposit Insurance Corporation or other federal insurance agency.

Code 1950, § 8-726; 1977, c. 617; 1988, c. 553; 1990, c. 3.

§ 8.01-584. How dividends and interest collected and invested.

The general receiver shall collect the dividends and interest on all the securities in which investments have been or may be made, under the orders or decrees of his court, or under the provisions of § 8.01-582, when and as often as the same may become due and payable thereon, and shall invest the same in like securities, unless the court has ordered or decreed some other investment or disposition to be made thereof; and in such case he shall invest or dispose of the same as the court shall have ordered or decreed.

Code 1950, § 8-727; 1977, c. 617.

§ 8.01-585. How accounts kept by receivers.

Each such general receiver shall keep an accurate and particular account of all moneys received, invested and paid out by him, showing the respective amounts to the credit of each case in the court and designating in the items the judgments, orders or decrees of court under which the respective sums have been received, invested or paid out. No later than October 1 of each year, he shall make a report to his court showing the balance to the credit of each case in the court in which money has been received by him, the manner of each case in the court in which money has been received by him, the manner in which it is invested, the amounts received, invested or paid out during the year ending June 30 of the current year, the approximate date on which the moneys held for the beneficiaries will become payable, and the whole amount then invested and subject to the future order of the court. A copy of the annual report shall be recorded in the trust fund order book. He shall, at any time when required by the court or the Auditor of Public Accounts so to do, furnish a statement of the amount subject to the order of the court in any case pending therein and any other information required by the court or the Auditor of Public

Accounts as to any money or other property under his control. He shall annually make formal settlement of his accounts before the court or before the commissioner mentioned in § 8.01-617 which settlement shall be recorded as provided in § 8.01-619.

Code 1950, § 8-728; 1977, c. 617; 1988, c. 553; 1989, c. 69.

§ 8.01-586. Inquiry as to unknown owners of funds.

When funds are held because of inability to find the person to whom payable, such receiver may be ordered by the court to make inquiry and due diligence to ascertain such person in order that payment may be made; and for this purpose, and to secure any other relevant information, he shall have power to summon witnesses and take evidence; and he shall report specifically to the court in each annual report, and at any other time when so ordered by the court, the details and results of his efforts.

Code 1950, § 8-729; 1977, c. 617; 1988, c. 553.

§ 8.01-587. Liability of general receivers.

Except as otherwise ordered by the court, for good cause shown, a general receiver shall be liable for any loss of income which results from his (i) failure to invest any money held by him pursuant to §§ 8.01-582 through 8.01-586 within sixty days of his receipt of the funds or (ii) failure to pay out any money so ordered by the court within sixty days of the court order. He shall be charged with interest from the date of the court order until such investment or payment is made.

Code 1950, § 8-730; 1977, c. 617; 1988, c. 841.

§ 8.01-588. Bonds generally.

A general receiver shall annually give before the court a bond with surety to be approved by it, in such penalty as the court directs, sufficient at least to cover the probable amount under his control in any one year.

This section shall apply to the clerk if the clerk is appointed such receiver, and his official bond as clerk shall not cover money or property under his control as general receiver.

Code 1950, § 8-731; 1977, c. 617; 1988, c. 841.

§ 8.01-588.1. Bonds apportioned to funds under control; annual reports.

The general receiver shall obtain bond through the Department of the Treasury's Division of Risk Management. No later than October 1 of each year, he shall report to the Division the amount of moneys under his control pursuant to § 8.01-582 as of June 30 of the current year and shall report the amount he expects to come under his control for the year ending on June 30 of the following year. He shall also report any other information reasonably required by the Division concerning bond coverage of moneys under his control. The cost of the bond shall be apportioned among the funds under his control as of the billing date based on the amount of each owner's or beneficiary's moneys. This section shall not apply to any financial institution fulfilling the requirements set out in § 6.2-1003 or § 6.2-1085.

1988, c. 841; 2000, cc. 618, 632.

§ 8.01-589. Compensation and fees; when none allowed.

A. A general receiver may retain from moneys received and held pursuant to § 8.01-582, compensation for his services in such amount as the court deems reasonable, but not exceeding:

1. Ten dollars at receipt of the originating court order to receive funds, deposit funds, and establish files and accounting records with respect to those funds;
2. Ten dollars when all funds held for a beneficiary or beneficiaries are disbursed;
3. Ten dollars per draft or check for periodic and final disbursements;
4. Five percent of the interest income earned;
5. Ten dollars for remitting funds to the State Treasurer and up to ten dollars per draft for remitting those funds; and
6. Fifty dollars for conducting a hearing to ascertain the identity or location of trust fund beneficiaries pursuant to § 8.01-586 as the court directs and \$50 per hour for an appearance in court.

B. When direct out-of-pocket expenses are necessary to carry out an order of the court, a general receiver may receive reimbursement for such expenses as the court deems reasonable.

C. (Effective until October 1, 2019) Notwithstanding the foregoing subsections, general receivers shall not deduct fees or otherwise be compensated for services with respect to those funds which should have been reported and then remitted to the State Treasurer in accordance with § 8.01-602 or 55-210.9:1.

A general receiver shall promptly report to the court the execution of the bond or bonds required in § 8.01-588 and make the reports and perform the duties required of him. No compensation shall be allowed him until he has performed the duties aforesaid.

If such receiver is the clerk of court and if compensation is allowed, it shall be fee and commission income to the office of such clerk in accordance with § 17.1-287.

C. (Effective October 1, 2019) Notwithstanding the foregoing subsections, general receivers shall not deduct fees or otherwise be compensated for services with respect to those funds which should have been reported and then remitted to the State Treasurer in accordance with § 8.01-602 or 55.1-2518.

A general receiver shall promptly report to the court the execution of the bond or bonds required in § 8.01-588 and make the reports and perform the duties required of him. No compensation shall be allowed him until he has performed the duties aforesaid.

If such receiver is the clerk of court and if compensation is allowed, it shall be fee and commission income to the office of such clerk in accordance with § 17.1-287.

Code 1950, § 8-732; 1977, c. 617; 1979, c. 498; 1988, c. 841; 2014, c. 65.

§ 8.01-590. Penalty for failure of duty.

If a general receiver fail to keep the account, or to make out and return the statements required by § 8.01-585, he shall be subject to a fine of not less than \$100 nor more than \$1,000 to be imposed by the court at its discretion; and the condition of his official bond shall be taken to embrace the liability of himself and his sureties for any such fine.

Code 1950, § 8-733; 1977, c. 617.

§ 8.01-600. How money under control of court deposited; record kept; liability of clerk.

A. This section pertains only to money held by the clerk of the circuit court, when the court orders moneys to be held by the clerk pursuant to this section. Where judgment is taken in the circuit court, upon motion of a party for good cause shown, the court may enter an order directing the clerk to hold moneys pursuant to this section. The clerk shall have the duty, unless it is otherwise specially ordered, to receive, take charge of, hold or invest in such manner as the court orders and also to pay out or dispose of these moneys as the court orders or decrees. To this end, the clerk is authorized to verify, receive, and give acquittances for all such moneys as the court may direct.

B. Orders creating funds pursuant to this section or § 8.01-582 shall include information necessary to make prudent investment and disbursement decisions. The orders shall include, except when it is unreasonable, the proposed dates of periodic and final

disbursements. Prior to the entry of the order, the beneficiary or his representative shall file an affidavit with the court providing the beneficiary's name, date of birth, address and social security number. The affidavit shall be maintained under seal by the clerk unless otherwise ordered by the court, and the information therein shall be used solely for the purposes of financial management and reporting.

Unless otherwise ordered by the court, the provisions of this section shall not apply to:

1. Cash or other money received in lieu of surety on any bond posted in any civil or criminal case, including but not limited to bail bonds, appeal bonds in appeals from a district court or circuit court, bonds posted in connection with the filing of an attachment, detinue seizure or distress, suspending bonds, and performance bonds;
2. Cash or other money paid or deposited in the clerk's office prior to final disposition of the case, including but not limited to interpleaders or eminent domain; or
3. Cash or other money deposited in lieu of surety on any bond posted in the clerk's office which is not posted in connection with any civil or criminal case, including bonds posted by executors or administrators.

C. All deposits under this section shall be secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.).

D. Moneys held pursuant to this section shall be invested in certificates of deposit and time deposits, and in accordance with the provisions of Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 as ordered by the court.

E. Any interest which accrues on the funds, minus allowable fees and bond costs, shall be credited and payable to the person or persons entitled to receive such funds. The court may order the clerk to consolidate for investment purposes money received under this section, with income received hereunder to be apportioned among the several accounts.

F. Except as otherwise ordered by the court, for good cause shown, the clerk shall be liable for any loss of income which results from his (i) failure to invest the money within sixty days of the court order creating the fund or (ii) failure to pay out any money so ordered by the court within sixty days of the court order. He shall be charged with interest from the date of the court order until such investment or payment is made.

G. The clerk shall keep an accurate and particular account of all moneys received, invested, and paid out by him, showing the respective amounts to the credit of each case in the court and designating in the items the judgments, orders or decrees of court under which the respective sums have been received, invested or paid out. At least annually and no later than October 1 of each year, the clerk shall make a report to the court, which shall include the chief judge of the circuit or the resident judge, showing the balance to

the credit of each case in the court in which money has been received by him, the manner in which money has been received by him, the manner in which it is invested, the amounts received, invested or paid out during the year ending June 30 of the current year, the approximate date on which the moneys held for the beneficiaries will become payable, and the whole amount then invested and subject to the future order of the court. The clerk shall make a copy of such report available to the Auditor of Public Accounts for purposes of audit. A copy of this report shall be recorded in the trust fund order book. The clerk shall, at any time when required by the court or the Auditor of Public Accounts to do so, furnish a statement of the amount subject to the order of the court in any case pending therein and any other information required by the court or the Auditor of Public Accounts as to any money or other property under his control before the court. When the clerk receives funds under this section, he shall be entitled to receive fees in accordance with § 17.1-287 in the amounts as specified for general receivers in § 8.01-589.

H. All moneys received under this section are subject to audit by the Auditor of Public Accounts.

Code 1950, § 8-744; 1977, c. 617; 1986, c. 644; 1988, c. 841; 1990, cc. 3, 414; 1991, c. 635; 2002, c. 832; 2015, c. 633; 2017, c. 35.

§ 8.01-601. Deposit with general receiver of certain funds under supervision of fiduciary and belonging to person under disability.

Whenever it appears to any fiduciary as defined in § 8.01-2 that a person under a disability as defined in § 8.01-2 is not represented by a fiduciary as defined above and is entitled to funds not exceeding \$3,000 under the supervision and control of the fiduciary in charge of such funds, he may report such fact to the commissioner of accounts of the court in which he was admitted to qualify. With the approval of such commissioner of accounts, the fiduciary in charge of such funds may deposit such funds with the general receiver of the court in which he was admitted to qualify. The general receiver shall issue a receipt to such fiduciary which shall show the source of such fund, the amount and to whom it belongs and shall enter the amount and such facts in his accounts.

Code 1950, § 8-744.1; 1970, c. 352; 1977, c. 617.

§ 8.01-602. (Effective October 1, 2019) Proceedings when owner of money under control of court unknown.

Whenever any money has remained payable or distributable for one year in the custody or under the control of any court of this Commonwealth without anyone known to the court claiming the same, except funds deposited as compensation and damages in condemnation proceedings pursuant to § 25.1-237 pending a final order or pursuant to § 33.2-1019, the court shall cause such money to be reported and then remitted to the State Treasurer pursuant to §§ 55.1-2518 or 55.1-2524.

The general receiver, if one has been appointed, and the clerk of the circuit court shall be responsible for identifying such money held by them in their respective control pursuant to §§ 8.01-582 and 8.01-600 and for petitioning the court to remit as provided in this section.

Code 1950, § 8-746; 1966, c. 210; 1977, c. 617; 1982, c. 155; 1984, c. 121; 1987, c. 708; 1988, c. 841.

§ 8.01-604. How State Treasurer to keep account of such money.

The State Treasurer shall keep an account of all money thus paid to him, showing the amount thereof, when, by whom, and under what order it was paid, and the name of the court, and, as far as practicable, a description of the suit or proceeding in which the order was made, and, as far as known, the names of the parties thereto.

Code 1950, § 8-748; 1977, c. 617; 1981, c. 514; 1982, c. 155.

§ 8.01-605. (Effective October 1, 2019) How person entitled to money paid into state treasury may recover it.

Money paid into the state treasury under the provisions of this article shall be accounted for and disbursed under the procedures provided for in Article 3 (§ 55.1-2524 et seq.) of Chapter 25 of Title 55.1.

Code 1950, § 8-749; 1962, c. 607; 1977, c. 617; 1981, c. 514; 1982, c. 155.

§ 8.01-606. Payment of small amounts to certain persons through court without intervention of fiduciary; authority of commissioners of accounts; certain fiduciaries exempt from accountings.

A. Whenever there is due to any person, any sum of money from any source, not exceeding \$25,000, the fund may be paid into the circuit court of the county or city in which the fund became due or such person resides. The court may, by an order entered of record, (i) pay the fund to the person to whom it is due, if the person is considered by the court competent to expend and use the same in his behalf, or (ii) pay the fund to some other person who is considered competent to administer it, for the benefit of the person entitled to the fund, without the intervention of a fiduciary, whether the other person resides within or without this Commonwealth. The clerk of the court shall take a receipt from the person to whom the money is paid, which shall show the source from which it was derived, the amount, to whom it belongs, and when and to whom it was paid. The receipt shall be signed and acknowledged by the person receiving the money, and entered of record in the book in the clerk's office in which the current fiduciary accounts are entered and indexed. Upon the payment into court the person owing the money shall be

discharged of such obligation. No bond shall be required of the party to whom the money is paid by the court.

B. Whenever (i) it appears to the court having control of a fund, tangible personal property or intangible personal property or supervision of its administration, whether a suit is pending therefor or not, that a person under a disability who has no fiduciary, is entitled to a fund arising from the sale of lands for a division or otherwise, or a fund, tangible personal property or intangible personal property as distributee of any estate, or from any other source, (ii) a judgment, decree, or order for the payment of a sum of money or for delivery of tangible personal property or intangible personal property to a person under a disability who has no fiduciary is rendered by any court, and the amount to which such person is entitled or the value of the tangible personal property or intangible personal property is not more than \$25,000, or (iii) a person under a disability is entitled to receive payments of income, tangible personal property or intangible personal property and the amount of the income payments is not more than \$25,000 in any one year, or the value of the tangible personal property is not more than \$25,000, or the current market value of the intangible personal property is not more than \$25,000, the court may, without the intervention of a fiduciary, cause such fund, property or income to be paid or delivered to any person deemed by the court capable of properly handling it, to be used solely for the education, maintenance and support of the person under a disability. In any case in which an infant is entitled to such fund, property or income, the court may, upon its being made to appear that the infant is of sufficient age and discretion to use the fund, property or income judiciously, cause the fund to be paid or delivered directly to the infant.

C. Where judgment is taken in the general district court, upon motion of a party for good cause shown, the general district court judge may enter an order directing the clerk of the general district court to hold such funds in escrow for a period not to exceed 180 days to enable such party to file a petition pursuant to § 8.01-600 requesting that such funds be received and held by the clerk of the circuit court upon payment of fees in accordance with § 17.1-275. The party petitioning the circuit court shall provide the clerk of the general district court a certified copy of any order entered by the circuit court directing that such funds held by the clerk of the general district court be transferred to the clerk of the circuit court. If no such order is received by the clerk of the general district court within the 180-day period, the clerk of the general district court shall give notice to the parties that such funds shall be disbursed to the plaintiff for which judgment was entered in the general district court within 30 days after such notice.

D. Whenever a person is entitled to a fund or such property distributable by a fiduciary settling his accounts before the commissioner of accounts of the court in which the fiduciary qualified, and the amount or value of the fund or property, or the value of any combination thereof, is not more than \$25,000, the commissioner of accounts may approve distribution thereof in the same manner and to the extent of the authority herein

conferred upon a court including exemption from filing further accounts where the value of the fund being administered is less than \$25,000.

E. Whenever an incapacitated person or infant is entitled to a fund or such property distributable by a fiduciary settling accounts before the commissioner of accounts of the court in which the fiduciary qualified and the will or trust instrument under which the fiduciary serves, authorizes the fiduciary to distribute the property or fund to the incapacitated person or infant without the intervention of a guardian, conservator or committee, and the amount or value of such fund or property, or the value of any combination thereof, is not more than \$25,000, the commissioner of accounts may approve distribution thereof in the same manner and to the extent of the authority hereinabove conferred upon a court or judge thereof.

F. Whenever a fiduciary is administering funds not exceeding \$25,000, the circuit court of the county or city in which the fund is being administered by order entered of record may authorize the fiduciary, when considered competent to administer the funds, to continue to administer the funds for the benefit of the person entitled to the fund without the necessity of filing any further accounts, whether such person resides within or without this Commonwealth. The clerk of the court shall take a receipt from the fiduciary, which shall show the amount of the fund remaining, to whom it belongs, and the date the court entered the order exempting the filing of further accounts. The receipt shall be signed and acknowledged by the fiduciary, and entered of record in the book in the clerk's office in which the current fiduciary accounts are entered and indexed. No surety shall be required on the bond of a fiduciary granted an exemption from filing any further accounts.

G. Whenever a fiduciary qualifies pursuant to § 64.2-454 for the sole purpose of prosecuting or defending an action, the court in which the fiduciary qualifies or the commissioner of accounts for such court may exempt the fiduciary from filing further accounts where the fiduciary is not administering any funds and has no power of sale over any real estate the decedent owned.

Code 1950, §§ 8-750, 8-751; 1952, c. 103; 1954, cc. 238, 526; 1962, c. 465; 1966, cc. 332, 339; 1970, c. 566; 1977, cc. 462, 617; 1978, c. 525; 1980, c. 544; 1985, c. 216; 1987, c. 378; 1995, c. 405; 1997, c. 801; 2003, c. 195; 2012, c. 43; 2015, cc. 129, 130, 633.

§ 17.1-124. Order books; automated systems.

Except as otherwise provided herein, each circuit court clerk shall keep order books or, in lieu thereof, an automated system recording all proceedings, orders and judgments of the court in all matters, all decrees, and decretal orders of such court and all matters pertaining to trusts, the appointment and qualification of trustees, committees, administrators, executors, conservators and guardians shall be recorded, except when the same are appointed by the clerk of court, in which event the order appointing such

administrators or executors, shall be made and entered in the clerk's order book. In any circuit court, the clerk may, with the approval of the chief judge of the court, by order entered of record, divide the order book into two sections, to be known as the civil order book and the criminal order book. All (i) proceedings, orders, and judgments of the court in all matters at civil law and (ii) trust fund orders, which shall include money held by a general receiver of the court pursuant to § 8.01-582 or by the clerk of the circuit court pursuant to § 8.01-600, shall be recorded in the civil order book, and all proceedings, orders and judgments of the court in all matters at criminal law shall be recorded in the criminal order book. In any proceeding brought for the condemnation of property, all proceedings, orders, judgments and decrees of the court shall be recorded in the civil order book of the court. The recordation prior to January 1, 1974, of all proceedings, orders, judgments and decrees in such cases, whether entered in the common-law order book or the chancery order book of any court, is hereby declared a valid and proper recordation of the same. Orders in cases appealed from the juvenile and domestic relations district courts shall be maintained as provided in this section and, to the extent inconsistent with this section, § 16.1-302.

The clerk shall ensure that these order books have been microfilmed or converted to or created in an electronic format. Such microfilm and microphotographic processes and equipment shall meet state microfilm standards, and such electronic format shall follow state electronic records guidelines, pursuant to § 42.1-82. The clerk shall further provide the master reel of any such microfilm for storage in the Library of Virginia and shall provide for the secured, off-site back up of any electronic copies of such records.

1926, p. 750, § 17-28; 1932, p. 765; 1936, p. 557; Michie Code 1942, § 5962a; 1962, c. 233; 1973, c. 9; 1974, c. 524; 1990, c. 258; 1997, c. 801; 1998, c. 872; 2005, c. 681; 2007, c. 567; 2010, cc. 717, 760; 2014, c. 460; 2017, c. 35.

§ 17.1-125. Civil order book.

The clerk shall record (i) trust fund orders pursuant to §§ 17.1-123 and 17.1-124 and (ii) the annual trust fund report required pursuant to subsection G of § 8.01-600 in a book known as the civil order book, in which shall be recorded all reports, orders, and decrees concerning moneys received or to be received by general receivers pursuant to § 8.01-582 and by clerks pursuant to § 8.01-600.

1988, c. 553, § 17-28.1; 1998, c. 872; 2017, c. 35.

§ 17.1-240. Recording by microphotographic or electronic process.

A procedural microphotographic process, digital reproduction, or any other micrographic process that stores images of documents in reduced size or in electronic format may be

used to accomplish the recording of writings otherwise required by any provision of law to be spread in a book or retained in the circuit court clerk's office, including the civil and criminal order books, the Will Book or Fiduciary Account Book, the Juvenile Order Book, the Adoption Order Book, the Trust Fund Order Book, the Deed Book, the Plat Book, the Land Book, the Bond Book, the Judgment Docket Book, the Partnership or Assumed Name Certificate Book, marriage records, and financing statements. Any such micrographic, microphotographic, or electronic recording process shall meet archival standards as recommended by The Library of Virginia.

1977, c. 142, § 17-70.1; 1983, c. 293; 1997, c. 579; 1998, c. 872; 2005, c. 681; 2018, c. 523.

§ 30-138. State agencies, courts, and local constitutional officers to report certain fraudulent transactions; penalty.

A. Upon the discovery of circumstances suggesting a reasonable possibility that a fraudulent transaction has occurred involving funds or property under the control of any state department, court, officer, board, commission, institution or other agency of the Commonwealth, including local constitutional officers and appointed officials exercising the powers of elected constitutional officers, as to which one or more officers or employees of state or local government may be party thereto, the state agency head, court clerk or local official in charge of such entity shall promptly report such information to the Auditor of Public Accounts (Auditor), the State Inspector General, and the Superintendent of State Police (Superintendent).

B. The Auditor, the State Inspector General, or the Superintendent shall review the information reported pursuant to subsection A and individually determine the most appropriate method to investigate the information. In the event that the Auditor, the State Inspector General, or the Superintendent determines to conduct an investigation, he shall notify the others of the commencement of the investigation as soon as practicable, unless the information involves the Auditor, the State Inspector General, or the Superintendent.

C. No state department, court, officer, board, commission, institution or other agency of the Commonwealth, including local constitutional officers and appointed officials exercising the powers of elected constitutional officers, shall employ or contract with any person, firm, corporation, or other legal entity to conduct an investigation or audit of information reported pursuant to subsection A without obtaining the prior written approval from the Auditor and the Superintendent. Pending acknowledgement of the report and receipt of the written approval from the Auditor and the Superintendent, the state department, court, officer, board, commission, institution, or other agency of the Commonwealth, including local constitutional officers and appointed officials exercising the powers of elected constitutional officers, may use their employees to audit the circumstances reported in subsection A to prevent the loss of assets.

D. All state departments, courts, officers, boards, commissions, institutions or other agencies of the Commonwealth, including local constitutional officers and appointed officials exercising the powers of elected constitutional officers and their employees, shall cooperate to the fullest extent in any investigation or audit which may occur at the direction of the Auditor or the Superintendent or both as a result of information reported pursuant to subsection A.

E. The willful failure to make the report as required by this section shall constitute a Class 3 misdemeanor.

F. Nothing herein shall affect the requirements of § 52-8.2.

1984, c. 421, § 2.1-155.3; 1997, c. 825; 2001, c. 844; 2011, cc. 798, 871.

§ 55.1-2502. (Effective October 1, 2019) Taking custody of intangible unclaimed property; general rules.

Unless otherwise provided in this chapter or by other law of the Commonwealth, intangible property is subject to the custody of the Commonwealth as unclaimed property if the conditions leading to a presumption of abandonment as described in §§ 55.1-2501, 55.1-2503, and 55.1-2505 through 55.1-2521 are satisfied and:

1. The last known address, as shown on the records of the holder, of the apparent owner is in the Commonwealth;
2. The records of the holder do not reflect the identity of the person entitled to the property, and it is established that the last known address of the person entitled to the property is in the Commonwealth;
3. The records of the holder do not reflect the last known address of the apparent owner, and it is established that (i) the last known address of the person entitled to the property is in the Commonwealth or (ii) the holder is a domiciliary or a government or governmental subdivision or agency of the Commonwealth and has not previously paid the property to the state of the last known address of the apparent owner or other person entitled to the property;
4. The last known address, as shown on the records of the holder, of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property, and the holder is a domiciliary or a government or governmental subdivision or agency of the Commonwealth;

5. The last known address, as shown on the records of the holder, of the apparent owner is in a foreign nation, and the holder is a domiciliary or a government or governmental subdivision or agency of the Commonwealth; or

6. a. The transaction out of which the property arose occurred in the Commonwealth, and (i) the last known address of the apparent owner or other person entitled to the property is unknown or (ii) the last known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property; and

b. The holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property.

1984, c. 121, § 55-210.2:2; 2000, cc. 733, 745; 2019, c. 712.

§ 55.1-2518. (Effective October 1, 2019) Property held by courts.

All intangible property held for the owner by any state or federal court that has remained unclaimed by the owner for more than one year after it became payable is presumed abandoned.

1983, c. 190, § 55-210.9:1; 1985, c. 294; 2000, cc. 733, 745; 2019, c. 712.

§ 55.1-2519. (Effective October 1, 2019) Responsibilities of general receiver and clerk.

The general receiver, if one has been appointed, and the clerk of each circuit court shall be responsible for identifying moneys held by them in their respective accounts that have remained unclaimed by the owner for more than one year after such moneys became payable and for petitioning the court to remit such money to the administrator. There shall be no obligation to report or remit funds deposited as compensation and damages in condemnation proceedings pursuant to § 25.1-237 prior to a final court order or pursuant to § 33.2-1019.

1988, c. 841, § 55-210.9:2; 2000, cc. 733, 745; 2019, c. 712.

§ 55.1-2521. (Effective October 1, 2019) Holder of tangible or intangible personal property may voluntarily report such property.

Any holder of tangible or intangible personal property the owner of which is unlocatable may voluntarily report the property to the administrator, prior to the statutory due dates, whereupon the property shall be presumed abandoned under this chapter.

1981, c. 47, § 55-210.10:2; 1983, c. 190; 2019, c. 712.

§ 55.1-2524. (Effective October 1, 2019) Report and remittance to be made by holder of funds or property presumed abandoned; holder to exercise due diligence to locate owner.

A. Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report and remit to the administrator with respect to the property as provided in this article. Reports containing 25 or more items shall be remitted in an electronic format as prescribed by the administrator. The administrator may waive this requirement when he determines that it creates an undue hardship.

B. The report shall be verified and shall include:

1. The name and social security or federal identification number, if known, and last known address, including zip code, if any, of each person appearing from the records of the holder to be the owner of any property of the value of \$100 or more presumed abandoned under this chapter;
2. In the case of unclaimed funds of insurance corporations, the full name of the insured or annuitant and any beneficiary, if known, and the last known address according to the insurance corporation's records;
3. In the case of the contents of a safe deposit box or other safekeeping repository or in the case of other tangible property, a description of the property and the place where it is held and may be inspected by the administrator and any amounts owing to the holder;
4. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under \$100 each may be reported in aggregate;
5. The date when the property became payable, demandable, or returnable and the date of the last transaction with the owner with respect to the property; and
6. Other information that the administrator prescribes by rule as reasonably necessary for the administration of this chapter.

C. If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

D. The report and remittance, including the remittance of unclaimed demutualization proceeds made pursuant to § 55.1-2509, shall be filed before November 1 of each year for the period ending June 30 of such year, but the report and remittance of insurance corporations shall be filed before May 1 of each year for the period ending December 31 of the previous year. When property is evidenced by certificate of ownership as set forth in § 55.1-2511, the holder shall deliver to the administrator a duplicate of any such certificate registered in the name "Treasurer of Virginia" or the Treasurer's designated nominee at the time of report and remittance. The administrator may postpone the reporting and remittance date upon written request by any person required to file a report.

E. If the holder of property presumed abandoned under this chapter knows the whereabouts of the owner, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. All holders shall exercise due diligence, as defined in § 55.1-2500, at least 60 days prior to the submission of the report to ascertain the whereabouts of the owner if (i) the holder has in its records an address for the apparent owner that the holder's records do not disclose to be inaccurate and (ii) the property has a value of \$100 or more.

F. Verification shall be executed (i) if made by a partnership, by a partner; (ii) if made by an unincorporated association or private corporation, by an officer; and (iii) if made by a public corporation, by its chief fiscal officer.

1960, c. 330, § 55-210.12; 1981, c. 47; 1982, c. 331; 1983, c. 190; 1984, c. 121; 1985, c. 294; 1987, c. 236; 1988, c. 378; 1992, c. 583; 2000, cc. 733, 745; 2003, cc. 750, 765; 2004, c. 524; 2019, c. 712.

§ 55.1-2537. (Effective October 1, 2019) Retention of records.

A. Every holder required to file a report under § 55.1-2524, shall retain all books, records, and documents necessary to establish the accuracy and compliance of such report for five years after the report is filed pursuant to subsection B of § 55.1-2524. If no report is filed, the holder shall retain such books, records, and documents for 10 years after the property becomes reportable, except to the extent that shorter time is provided in accordance with the Virginia Public Records Act (§ 42.1-76 et seq.), in accordance with subsection B, or by rule of the administrator. As to any property for which it has obtained the last known address of the owner, the holder shall maintain a record of the name and last known address of the owner for the same retention period.

B. Any business association that sells in the Commonwealth its traveler's checks, money orders, or other similar written instruments, other than third-party bank checks on which the business association is directly liable, or that provides such instruments to others for sale in the Commonwealth, shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue for three years after the date the property is reportable.

1983, c. 190, § 55-210.24:1; 1985, c. 294; 1988, c. 378; 2000, cc. 733, 745; 2019, c. 712.

§ 55.1-2540. (Effective October 1, 2019) Interest and penalties.

A. Any person who fails to pay or deliver property within the time prescribed by this chapter shall be required to pay to the administrator interest at the same annual rate as is applicable to delinquent taxes under § 58.1-1812 on the property or value thereof from the date the property should have been paid or delivered. Such interest rate shall vary with the rate specified in § 58.1-1812.

B. Any person who does not exercise due diligence as defined in § 55.1-2500 shall pay a civil penalty not to exceed \$50 for each account upon which due diligence was not performed.

C. Except as otherwise provided in subsection D, a holder that (i) fails to report, pay, or deliver property within the time prescribed by this chapter; (ii) files a false report; or (iii) fails to perform other duties imposed by this chapter without good cause shall pay to the administrator, in addition to interest as provided in subsection A, a civil penalty of \$100 for each day the report, payment, or delivery is withheld or the duty is not performed, up to a maximum of the lesser of \$10,000 or 25 percent of the value of the property that should have been but was not reported.

D. A holder that (i) willfully fails to report, pay, or deliver property within the time prescribed by this chapter; (ii) willfully fails to perform other duties imposed by this chapter without good cause; or (iii) makes a fraudulent report to the administrator shall pay to the administrator, in addition to interest as provided in subsection A, a civil penalty of \$1,000 for each day the report, payment, or delivery is withheld or the duty is not performed, up to a maximum of the lesser of \$50,000 or 100 percent of the value of the property that should have been but was not reported.

E. The administrator for good cause may waive, in whole or in part, interest under subsection A and penalties under subsections B, C, and D. All civil penalties shall be payable to the State Treasurer and credited to the Literary Fund.

1984, c. 121, § 55-210.26:1; 1988, c. 378; 1992, c. 583; 2000, cc. 733, 745; 2019, c. 712.